

# Federal Defenders OF NEW YORK, INC.

Southern District  
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November 15, 2016

**BY HAND AND ECF**

**BY ECF**

Honorable Valerie E. Caproni  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**Re: United States v. Kevin Johnson**  
**15 Cr. 565 (VEC)**

Dear Judge Caproni:

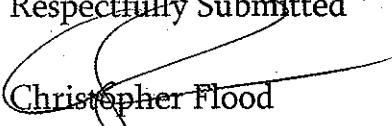
We write concurrent with the filing of our Motion to Exclude, filed today, the subject of which is the New York City Office of the Chief Medical Examiner's (OCME) Forensic Statistical Tool (FST) and related testimony. Your Honor granted our request for a Subpoena *Decus Tecum*, and issued that Subpoena on July 18, 2016 thereby enabling our review of the source code to this software subject the terms of a Protective Order which remains in effect.

The terms of that order, and by agreement with the OCME, prior to public filing of any materials that make direct reference to the source code of FST, the OCME is to be given a reasonable opportunity to consider its position on any redactions. We spoke with the legal department of the OCME, and to Your Honor's chambers, and seek at this time to file the brief under seal (delivered to Your Honor by email and hard copy). We then will negotiate any appropriate redactions with the OCME within 48 hours and submit a proposed redacted version for the Court's consideration.

If the Court requires further information, I or Ms. Levine can be reached at the numbers or email addresses below.

Thank you for considering this request.

Respectfully Submitted

  
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